



OFFICE OF THE POLICE COMMISSIONER  
ONE POLICE PLAZA • ROOM 1400

November 2, 2012

Memorandum for: Deputy Commissioner, Trials

**CHAN**

Re: **Police Officer Jasmin Laperuta**  
Tax Registry No. 934197  
Housing Borough Manhattan  
Disciplinary Case No. 86614/10

The above named member of the service appeared before Assistant Deputy Commissioner Claudia Daniels-DePeyster on August 24, 2011 and was charged with the following:

**DISCIPLINARY CASE NO. 86614/10**

1. Said Police Officer Jasmine Laperuta, assigned to the 46 Precinct, on or about May 17, 2010, within the confines of the State of New Jersey, did consume an intoxicant to the extent that said officer was unfit for duty.

**P.G. 203-04, Page 1, Paragraph 2**

**FITNESS FOR DUTY**

2. Said Police Officer Jasmine Laperuta, assigned as indicated in Specification #1, on or about May 17, 2010, within the confines of the State of New Jersey, engaged in conduct prejudicial to the good order, efficiency or discipline of the Department to wit: said officer allowed an intoxicated person to operate a motor vehicle.

**P.G. 203-10, Page 1, Paragraph 5**

**GENERAL REGULATIONS –  
PROHIBITED CONDUCT  
DRIVING WHILE  
INTOXICATED**

**NJSA 39:4-50(a)(1)(i)**

3. Said Police Officer Jasmine Laperuta, assigned as indicated in Specification #1, on or about May 17, 2010, within the confines of the State of New Jersey, engaged in conduct prejudicial to the good order, efficiency or discipline of the Department to wit: said officer endangered the welfare of a child by allowing her children to ride as passengers in a motor vehicle operated by an intoxicated individual.

**P.G. 203-10, Page 1, Paragraph 5**

**GENERAL REGULATIONS –  
PROHIBITED CONDUCT**

**POLICE OFFICER JASMIN LAPERUTA**  
**DISCIPLINARY CASE NO. 86614/10**

4. Said Police Officer Jasmine Laperuta, assigned as indicated in Specification #1, on or about May 17, 2010, within the confines of the State of New Jersey, having been involved in an off-duty incident, did thereafter fail and neglect to report said incident to the Internal Affairs Bureau, as required.

**P.G. 212-32, Page 1, Paragraph 2 Note**

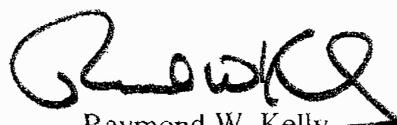
**OFF-DUTY INCIDENTS  
INVOLVING UNIFORMED  
MEMBERS OF THE SERVICE**

5. Said Police Officer Jasmine Laperuta, assigned as indicated in Specification #1, on or about May 17, 2010, in that said Police Officer possessed an unauthorized duplicate copy of Department property, to wit said Police Officer was in possession of a duplicate Department shield..

**P.G. 203-10, Page 2, Paragraph 18**

**PUBLIC CONTACT –  
PROHIBITED CONDUCT**

In a Memorandum dated November 21, 2011, Assistant Deputy Commissioner Claudia Daniels-DePeyster found Respondent Laperuta Guilty of Specification No. 5 and Not Guilty of Specification Nos. 1, 2, 3, 4, in Disciplinary Case No. 86614/10. Having read the Memorandum and analyzed the facts of this matter, I approve the findings, but disapprove the penalty. Respondent Laperuta shall forfeit thirty (30) suspension days already served, regarding this matter.

  
Raymond W. Kelly  
Police Commissioner



POLICE DEPARTMENT

The  
City  
of  
New York

November 21, 2011

MEMORANDUM FOR: Police Commissioner

Re: Police Officer Jasmin Laperuta<sup>1</sup>  
Tax Registry No. 934197  
Housing Borough Manhattan  
Disciplinary Case No. 86614/10

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The above-named member of the Department appeared before me on August 24, 2011, charged with the following:

1. Said Police Officer Jasmine Laperuta, assigned to the 46 Precinct, on or about May 17, 2010, within the confines of the State of New Jersey, did consume an intoxicant to the extent that said officer was unfit for duty.

P.G. 203-04, Page 1, Paragraph 2 – FITNESS FOR DUTY

2. Said Police Officer Jasmine Laperuta, assigned as indicated in Specification #1, on or about May 17, 2010, within the confines of the State of New Jersey, engaged in conduct prejudicial to the good order, efficiency or discipline of the Department to wit: said officer allowed an intoxicated person to operate a motor vehicle.

P.G. 203-10, Page 1, Paragraph 5 – GENERAL REGULATIONS  
PROHIBITED CONDUCT

NJSA 39:4-50(a)(1)(i) – DRIVING WHILE INTOXICATED

3. Said Police Officer Jasmine Laperuta, assigned as indicated in Specification #1, on or about May 17, 2010, within the confines of the State of New Jersey, engaged in conduct prejudicial to the good order, efficiency or discipline of the Department to wit: said officer endangered the welfare of a child by allowing her children to ride as passengers in a motor vehicle operated by an intoxicated individual.

P.G. 203-10, Page 1, Paragraph 5 – GENERAL REGULATIONS  
PROHIBITED CONDUCT

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<sup>1</sup> Respondent testified that the correct spelling of her first name does not include an “e” at the end.

4. Said Police Officer Jasmine Laperuta, assigned as indicated in Specification #1, on or about May 17, 2010, within the confines of the State of New Jersey, having been involved in an off-duty incident, did thereafter fail and neglect to report said incident to the Internal Affairs Bureau, as required.

P.G. 212-32, Page 1, Paragraph 2 Note – OFF-DUTY INCIDENTS INVOLVING UNIFORMED MEMBERS OF THE SERVICE

5. Said Police Officer Jasmine Laperuta, assigned as indicated in Specification #1, on or about May 17, 2010, in that said Police Officer possessed an unauthorized duplicate copy of Department property, to wit said Police Officer was in possession of a duplicate Department shield.

P.G. 203-10, Page 2, Paragraph 18 PUBLIC CONTACT PROHIBITED CONDUCT

The Department was represented by Beth Douglas, Esq. and Chai Park, Esq., Department Advocate's Office. Respondent was represented by Stuart London, Esq.

Respondent, through her counsel, entered a plea of Not Guilty to the subject charges. A stenographic transcript of the trial record has been prepared and is available for the Police Commissioner's review.

DECISION

Respondent is found Not Guilty of Specification Nos. 1-4 and Guilty of Specification No. 5.

SUMMARY OF EVIDENCE PRESENTED

The Department's Case

The Department called Dimitrios Salogiannis, Lieutenant William Wassinger, Detective Sophia Jeffrey, and Captain David Zimmer as witnesses.

Dimitrios Salogiannis

Salogiannis has been a member of the Palisades Interstate Parkway Police Department since October of 2009. In May of 2010, his responsibilities included patrolling “the southern end of the [Palisades] Parkway which is the Fort Lee and Woodcrest section.” On May 16, 2010, he worked the 3:00 p.m. to 11:00 p.m. tour. At approximately 9:30 to 9:40 p.m., he “observed a green vehicle – a Cherokee, traveling northbound, erratically, crossing over the solid line shoulder of the right lane on the right side of the parkway.” He also observed “an object that looked to be a paper dinner plate being thrown from the driver’s side window.”

After observing these two things, Salogiannis activated his emergency lights and conducted a motor vehicle stop. He also activated “MVR,” or Motor Vehicle Recorder, which is an audio and video system with a camera attached to his police vehicle. The MVR provided a video and audio recording of this vehicle stop [Department’s Exhibit (DX) 3]. Another police officer who was also traveling north – Police Officer Thomas Rossi – stopped to provide back up to Salogiannis.

Salogiannis testified that he approached the Cherokee on foot towards the driver’s side while Rossi approached from the passenger’s side. He observed a shirtless male driver, and a woman slumped over, passed out, facing downwards in the passenger’s seat with no seatbelt on. This woman was later identified as Respondent. In addition, there were two children in the backseat of the car. The male driver “started shoving and pushing the passenger in the vehicle who was still facedown and incoherent and was saying: ‘Jay wake up; Jasmin, wake up.’” According to Salogiannis, there was an “overwhelming odor of an alcoholic beverage” coming from the vehicle and from the

operator's mouth. The woman in the passenger's seat was not responding to being shoved.

Salogiannis asked the driver to exit the vehicle and observed him "swaying...sagging back and forth...[and] mumbling his speech and shouting." The driver told Salogiannis that he was coming from a party where he had been drinking with other cops. The driver refused to take a field sobriety test and breath test. Salogiannis and Rossi handcuffed the driver and placed him under arrest, because of "the odor of an alcoholic beverage coming from his breath. His overall appearance with the way he was standing. His speech. The operation of the motor vehicle." The driver was placed in the backseat of Salogiannis' police vehicle.

The officers then tried to wake up Respondent. The kids in the backseat of the car also tried to wake her up. Finally she woke up. Rossi noticed a bottle of Grey Goose liquor and requested that Respondent hand it to him. Respondent first handed him a can of air freshener, and then the bottle of Grey Goose. Rossi asked Respondent why she let her husband drive her when he was intoxicated and she responded, "Men fathers will do whatever they want. Men will do whatever they want." Rossi drove Respondent and the two children back to the police station. The Cherokee was towed to an impound lot for twelve hours, pursuant to the New Jersey "John's Law."

Respondent was issued a summons at 9:40 p.m. for "allowing an operator to drive while intoxicated" (DX 1). She was not arrested at this time. The summons stated that Respondent should appear in court on May 18, 2010 at 2:00 p.m.

On May 18, 2010, when Respondent came to court, she was served with another summons for endangering the welfare of a child (DX 2) and was then placed under arrest.

On cross-examination, Salogiannis testified that on May 16, 2010, when he pulled over the car with Respondent in the passenger's seat, he focused his attention on the driver of the vehicle, Respondent's husband. He also stated that he filled out an "Arrest Report" for the driver of the vehicle. In the report, he did not indicate that Respondent had alcohol on her breath, glassy eyes, was unsteady or swaying on her feet, that she was antagonistic, or that her eyes were bloodshot or watery. He did not make any indication that Respondent was intoxicated.

Salogiannis stated that he was aware that Rossi was found "not to be credible" by the New Jersey State Appeals Court because he gave nearly identical testimony in 26 unrelated cases. He also stated that Rossi's written report (DX 4, Incident Report Form) did not provide any details indicating that Respondent was intoxicated on May 16, 2010.

Further, Salogiannis agreed that Respondent denied being intoxicated and claimed to have been tired when she was found slumped over in the passenger's side of her car on that date. He was unaware that Respondent had recently undergone surgery and was taking a pain medication on May 16, 2010. He did not ask Respondent if she was taking any medications. He agreed that the bottle of alcohol found in Respondent's car was not tested for saliva or DNA to determine who drank from it.

Salogiannis admitted that "his word" is the only proof that Respondent was actually issued a summons on May 16, 2010. This is because she did not sign the summons apparently given to her at that time. He filled out a report on May 16, 2010 indicating that Respondent's husband had received several summonses, but the report did not indicate that Respondent had been issued any summonses (Respondent's Exhibit [RX] A). Salogiannis could not state exactly why he did not include Respondent's

summons on his report. However, he insisted that she actually did receive a summons on May 16, 2010.

Salogiannis stated that a supplemental report he prepared on May 18, 2010 (RX B) indicated that Respondent was issued two summonses, both on May 18, 2010 rather than one on May 16, 2010 and one on May 18, 2010, as Salogiannis had been stating. Salogiannis insisted that he gave one summons to Respondent on May 16, and refused to change his testimony regarding this, despite the fact that there was no documentation to support this. Salogiannis stated that neither he nor Rossi ever filled out a "drinking report" regarding Respondent.

During redirect examination, Salogiannis reiterated that he gave Respondent the first summons on May 16, 2010. He testified that on May 16, 2010, he may have conferred with his desk sergeant, Sergeant Tamayo, about issuing the summons, but "it was [under his] discretion" to issue the summons. He also stated that on May 18, 2010, Respondent was issued a second summons, a criminal charge.

Salogiannis stated that on May 18, 2010, Respondent was present in court at 2:00 p.m., the time indicated on her first summons. He did not recall whether Respondent's case was "on the calendar" or not.

When asked by the Court if he observed Respondent's behavior when she was in the passenger's seat of her husband's car on May 16, 2010, he stated that he observed her slurring her speech, but that he did not note this in any written reports. He further stated that Respondent was not taken into custody on that night, but released along with her children. He also testified that he is not required to carry a log book, and that he only carries a notebook to "jot down little things."

Lieutenant William Wassinger

Wassinger stated that he has been a member of the Department for “a little over 17 years.” He was recently promoted to the rank of Lieutenant in April of 2009 and is currently assigned to Internal Affairs Bureau (IAB) Group 33. Prior to this he was an investigator in IAB Group 21, and he “was responsible for the team” that investigated cases.

On May 18, 2010, he “was tasked to respond to the Palisades Interstate Parkway Police Department to gather more information about the details of the arrest of [Respondent’s] husband on the 16<sup>th</sup>.” He interviewed Salogiannis and Rossi and memorialized this interview on a worksheet (RX E, Investigating Officer’s Report). Wassinger said:

Officer Rossi explained the reason for the car stop. His partner had observed the vehicle swerve across the lane and garbage thrown from the driver’s side window. They commenced a car stop. Once they did the car stop, Officer Salogiannis walked up on the driver’s side of the car. Officer Rossi had walked up on the passenger’s side of the car. When he looked inside the passenger’s side of the car, he saw who we now know to be [Respondent] in the passenger’s seat with her torso facedown on the seat of the car and her legs in the wheel well of the car.

Furthermore, in the interview Rossi described the bottle of Grey Goose at Respondent’s feet, her slurred speech, her bloodshot eyes, and the fact that she appeared to be disoriented and confused. In addition, he told Wassinger that Respondent had stumbled and needed to rest herself up against the guardrail when she exited the vehicle. Finally, he discussed the “overwhelming smell of alcohol on [Respondent on May 16, 2010].”

Wassinger stated that “on the 17<sup>th</sup>, in the evening, [Respondent] was modified and suspended” because of “the interaction she had...with the Police Department in New Jersey.”

On cross-examination, Wassinger stated that he did not view Rossi’s report from May 16, 2010, nor did he ask Rossi if his report indicated that Respondent had slurred speech, bloodshot eyes, and an overwhelming sense of alcohol about her. Wassinger read from Rossi’s Incident Report Form and only found one line where Rossi mentioned the drunken appearance of Respondent. This line stated: “she was sitting on a guard rail and slurring her speech as she asked me for her ID back.”

Wassinger further stated that on May 18, 2010, Salogiannis told him that there were no summonses issued to Respondent on May 16, 2010. When told that Salogiannis testified otherwise earlier in the trial, Wassinger stated that “the information that I was given is different from what he is now telling you. What I was told was that no summons was issued to her on the 16<sup>th</sup>, the night of the occurrence.”

As part of Wassinger’s investigation, he sought to find out why Respondent was neither arrested nor was given a summons on May 16, 2010. This was in his report which he filled out on May 18, 2010. That report also indicates that Salogiannis stated that prior to “locking up” Respondent on May 16, he wanted to confer with a supervisor. Eventually, the supervisor’s decision was to wait and see if Respondent came to court with her husband on May 18, 2010 and arrest her then.

Wassinger agreed that there was no one from the New York City Police Department in a position to determine whether Respondent was “fit for duty” on May 16, 2010. In addition, there were no reports filled out by the Palisades Interstate Parkway

Police Department which would assist the Department in making such a determination on that date. Finally, Respondent was suspended by the Department before she was arrested or handed any summonses with respect to this case.

Wassinger agreed that it seemed as if Respondent was being charged with failing to report an off-duty incident on May 17, 2010, even though she had not been given a summons before May 18, 2010.

He also stated that he was unaware that "Rossi was found by the New Jersey State Appeals Court not to be credible and his testimony was disregarded because he had virtually identical testimony in 26 unrelated cases." He agreed that he never did any research on Rossi after he took his statements.

On redirect examination, Wassinger stated that "on May 17<sup>th</sup>, when the investigation began...it was imperative for us to find out exactly what had transpired. The information given to me by them was that she was neither arrested nor summonsed..." However, in his report it only stated that Respondent was not arrested and it does not state that Respondent was not summonsed.

Upon further questioning, Wassinger confirmed that his independent memory recalled that he was told Respondent was neither summonsed nor arrested. However, in his report, he did not write that Respondent was not summonsed.

Detective Sophia Jeffrey

Jeffrey testified that she has been employed by the Department for approximately 11 years. She has been assigned to IAB Group 21 for five years. In her assignment, she is responsible for conducting preliminary investigations on cases that she receives.

On May 25, 2010, Jeffrey was assigned to this case. On August 31, 2010, she notified [REDACTED] County Department of Social Services “that [Respondent] was the passenger in a vehicle where there was someone who was allegedly intoxicated and there were two children in the backseat of the vehicle.” John Baldwin, an employee of the [REDACTED] County Department of Social Services, sent Jeffrey a letter in response to her report (DX 6).

Jeffrey stated that two shields were recovered from Respondent when she was suspended. The shields “were delivered to the Shield ID Desk and one was deemed that it was a duplicate shield.”

Upon further questioning, Jeffrey stated that she was aware that the criminal charges against Respondent were dismissed. She believed that the reason for this was that Respondent’s husband pled guilty, but she did not have any written documentation to back this up.

Captain David Zimmer

Zimmer has been a member of the Department for over eight years. He is currently the Commanding Officer of IAB Group 33. In this role, he is tasked with supervising investigations, directing investigative actions, doing investigations, and conferring with the Department Advocate’s Office. On May 17, 2010, he was the acting Commanding Officer of IAB Group 21.

On May 17, 2010 Zimmer was informed that there was “a call out that was going on in which the Palisades Police Department had...stated that they had [Respondent] and her husband in custody.” After receiving this information, Zimmer “reached out to the

Palisades Police Department to speak to a supervisor there.” He spoke with Lieutenant Coppola, who “related that [Respondent] was given a summons for allowing the operation of a vehicle by someone who was drunk or DWI, that she was given a return date and that other charges may or may not be pending.” After hearing this, Zimmer conferred with his supervisors, who directed him to have Respondent suspended (DX 5, Report (UF-49) regarding Respondent’s suspension).

During cross-examination, Zimmer admitted that on May 17, 2010 when he suspended Respondent, it was based on Coppola telling him that “she was issued a summons [on May 16] with a return date for two days later” (RX D, Report dated May 17, 2010). He then agreed that based on a report that he prepared on May 19 (RX C), she was not issued a summons on May 16. He also stated that if she had not really received a summons on May 16 then he would not have suspended her on May 17. Finally, he stated that she could not have reported an incident to the Department without first having received a formal charge such as a summons. He noted that Respondent was not formally charged criminally until May 18, 2010.

Upon redirect examination, Zimmer reviewed the IAB Call Log for May 17 and 18, 2010 (DX 7). According to this log, Zimmer spoke with Coppola of the Palisades Police Department at 10:45 a.m. In addition, at 10:00 p.m., the log indicated that “pending charges” for reckless endangerment of a child was the reason for Respondent’s suspension, rather than actual charges.

The call log also stated that on May 18, 2010 at 7:35 p.m., there was a call indicating Respondent was arraigned in Bergen County Court for two charges.

Upon recross-examination, Zimmer confirmed that his current understanding was that Respondent was issued the summonses on May 18, and this was the first time she was formally charged with anything.

Upon questioning by the Court, Zimmer was asked whether Respondent had a duty to report an off-duty incident where she was not formally charged, but her husband was charged in her presence with DWI when her children were in the car. Zimmer testified that he did not believe Respondent had a duty to report under the Patrol Guide if she was not the subject of enforcement.

#### Respondent's Case

Respondent testified in her own behalf.

#### Respondent

Respondent testified that when she graduated from the Police Academy in July 2004, she was assigned to the 46 Precinct, where she spent six years assigned to patrol before being transferred to "PSA 6, Viper 1" because of the charges that are the subject of this case. She is currently on modified assignment.

On the night of May 16, 2010, Respondent, her husband, and her two children, attended a "one-year-old birthday party" in Queens for a friend of the family. They arrived at the catering hall where the party was being held at approximately 6:00 or 7:00 p.m. Neither Respondent nor her husband had any alcohol prior to the party. At the party itself, there was no alcohol served – just "soft drinks, water, juice." Respondent's

husband may have left the party for a period of time, but she “really didn’t pay attention to his whereabouts during the entire party.”

After about two hours, Respondent “wasn’t feeling that well” because of her surgery, which she had 11 days prior (RX F, Respondent’s medical records). The family left the party “a little early.”

After her surgery, Respondent had been prescribed a painkiller called Toradol. The side effects from the medication caused her to feel “tired, sleepy.” Therefore, at “maybe 8:30/8:45” p.m., Respondent and her family began to drive home, with her husband, Anthony Laperuta, at the wheel. Respondent did not have any knowledge that her husband had consumed any alcohol.

Respondent testified that while she was asleep, the car was pulled over by the Palisades Interstate Parkway Police Department. She was “woken up by the Officer on the scene who then informed [her] that...[she] would be going to the station house because [her] husband was intoxicated.” Prior to that, Respondent still was not aware that her husband was intoxicated. She had not had anything to drink - she was sleeping because she had taken her medication after dinner.

The police officers recovered a Grey Goose bottle from the passenger’s seat of the vehicle near Respondent’s feet. She testified that she had not had any of the Grey Goose herself, and she had not seen her husband ingest any of the Grey Goose.

Respondent was not placed under arrest, nor was she issued any summonses at that time. She was not offered any field sobriety test or coordination test. After being taken back to the precinct, Respondent still was not arrested and still was not given any

summonses. She was also not informed that she would be receiving any summonses on May 18, 2010.

On May 18, 2010, Respondent went to court “as support for Anthony because he was issued four summonses” on May 16, 2010. Upon arriving in court, Respondent was notified that she would be issued a summons and charged with endangering the welfare of a minor. Ultimately, this case was dismissed (RX G, Motion for Dismissal).

Respondent reiterated that on May 16, 2010, she did not consume any intoxicants which made her unfit for duty. She also did not allow her husband to operate the vehicle while knowing that he was intoxicated, nor did she knowingly allow her children to ride in the car while her husband drove while intoxicated.

On May 17, 2010, she had not been charged with any crime yet, so she did not notify IAB about this incident at that time.

When Respondent was suspended, she was in possession of a duplicate shield.

During cross-examination, Respondent testified that as a result of her charges, she had been required to complete an alcohol and prescription medication counseling program through the Department.

Respondent took one pill of Toradol on the night of May 16, 2010, but she did not recall the exact time that she took this pill. She did not notice the bottle of Grey Goose inside the vehicle before she fell asleep. She had no recollection or explanation for why the bottle of Grey Goose was there. When she fell asleep, her husband had his shirt on. When she was awakened, he had taken it off. Respondent stated that this was because “he was eating pizza and he was wearing a white shirt and he did not want to get sauce on his shirt.”

Respondent testified that her husband's criminal case was dismissed. On May 18, 2010, she arrived at court with her husband at "approximately 8, 8:30 [a.m.]" and she was arrested soon thereafter. She denied that she arrived because she was instructed to appear in court by a summons.

Respondent was investigated by the Orange County Department of Social Services because of the allegations regarding endangering the welfare of her children. This investigation revealed "some findings" of child abuse pertaining to the incident of May 16, 2010.

Upon redirect examination, Respondent identified the letter from her doctor which prescribed the Toradol for post-operative pain management (RX H).

Upon questioning by the Court, Respondent stated that the Department of Social Services investigation was conducted prior to her criminal charges being dismissed. She also stated that the findings of child abuse are currently under appeal and she plans to report at her hearing that all criminal charges were dismissed. Neither she nor her husband were questioned or interviewed by the Department of Social Services in the form of a hearing prior to them making their findings. The Department of Social Services relied on the criminal case to support its findings.

#### FINDINGS AND ANALYSIS

##### Specification No. 1

Respondent stands charged herein in that on or about May 17, 2010, within the confines of the State of New Jersey, she did consume an intoxicant to the extent that said officer was unfit for duty. Respondent is found Not Guilty. Evidence adduced at trial

established that Respondent's husband was stopped in the State of New Jersey for driving erratically while Respondent slept in the passenger seat. Respondent's children were in the back of the vehicle. Respondent's husband was arrested for operating a motor vehicle while being under the influence of alcohol. After Respondent's husband was placed under arrest based on the smell of alcohol emanating from his breath, attempts were made to awaken Respondent. Eventually Respondent was awakened.

Palisades Interstate Parkway Police Officer Dimitrios Salogiannis testified that Respondent was issued a summons on the incident date for allowing an operator to drive while intoxicated. He also testified that Respondent was not arrested at that time. There was no paperwork to support any allegation that Respondent had consumed an intoxicant to the extent that she was unfit for duty. No one had made a determination as to her fitness for duty. No supervisor had made observations of her. In fact, the police officers involved in the vehicle stop stated that although the smell of alcohol emanated from the vehicle, they did not attribute the smell to Respondent, they said the smell of alcohol came from her husband's breath.

Therefore, no evaluation was made of Respondent's condition. The fact that Respondent acknowledged that she took a painkiller on the incident date to assist with the pain she was feeling, (i.e., Toradol) following surgery three weeks earlier and that said painkiller made her tired and drowsy, this is insufficient in and of itself to draw the conclusion that Respondent was unfit for duty due to the consumption of an intoxicant.

Accordingly, Respondent is found Not Guilty of Specification No. 1.

Specification Nos. 2 and 3

Respondent stands charged herein in that on or about May 17, 2010, within the confines of the State of New Jersey, she engaged in conduct prejudicial to the good order, efficiency or discipline of the Department to wit: said officer allowed an intoxicated person to operate a motor vehicle and that said officer endangered the welfare of a child by allowing her children to ride as passengers in a motor vehicle operated by an intoxicated individual.

Respondent is found Not Guilty. Respondent testified that she, along with her husband and children were at a child's birthday party in which no alcohol was served. She had not seen her husband consume any alcohol at the party, although she acknowledged that there were times when they were not together at the event. Respondent said that she began to feel the effects of the surgery she had 11 days earlier and consumed a pill, Toradol, which had been prescribed to her by her doctor to aid her in her discomfort. She took the pill at the party and began to feel tired and drowsy. She recalled seeing her husband prior to falling asleep and he had his shirt on and he was not intoxicated. The next time she saw her husband was after she had been awakened in her vehicle following the stop of her husband by the police. He had his shirt off and was in police custody.

Respondent denied having any knowledge that her husband had consumed alcohol. Respondent acknowledged that she handed an empty bottle of Grey Goose alcohol to the police that was located at her feet in her vehicle. She testified that she had not seen the bottle prior to handing it to the police.

Respondent testified credibly and her account of no alcohol at the party was not challenged. Respondent testified that she was not given a field sobriety test, or a coordination test and was not arrested on the incident date. In fact, the police did not attribute her husband's driving to her because she was not arrested that night and was allowed to leave with her children on the incident date. The children were not taken into protective custody by the police. In fact, the issue of whether Respondent was even issued a child endangerment summons on the incident date was challenged not only by Respondent, but also by the Department's own witness, Captain David Zimmer.

The Department has failed to prove by a preponderance of the credible evidence that Respondent allowed her intoxicated husband to operate a motor vehicle and endangered the welfare of a child by allowing her children to ride as passengers in a motor vehicle operated by an intoxicated individual.

Accordingly, Respondent is found Not Guilty of Specification Nos. 2 and 3.

Specification No. 4

Respondent stands charged herein in that on or about May 17, 2010, within the confines of the State of New Jersey, having been involved in an off-duty incident, she did thereafter fail and neglect to report said incident to IAB, as required. Respondent is found Not Guilty. Evidence adduced at trial established through the testimony of Zimmer was critical to this case. Zimmer testified that on the incident date, May 17, 2010, he was the acting Commanding Officer of IAB Group 21 and was involved in Respondent's case. Zimmer stated that the facts surrounding Respondent's case was vague and he needed to get in touch with a supervisor at the Palisades Interstate Parkway

Police Department to ascertain what had transpired. Zimmer spoke to Lieutenant Coppola and based on his discussions with him, he thought that Respondent had been arrested on May 16, 2010, so a decision was made to suspend Respondent. Zimmer testified that he later learned that Respondent was not arrested on May 16 or 17, 2010, but that she was formally charged on May 18, 2010 with endangering the welfare of a child and arrested. Based on the new information, Zimmer testified that he would not have suspended Respondent at the time that he did. In addition, he stated that Respondent was not under a duty to report an off-duty incident on May 17, 2010 when she was not the subject of police enforcement at that time.

Based on the fact that Respondent was not formally charged until May 18, 2010 and despite the fact that her husband had been arrested, since she was not the subject of enforcement, she had no duty to report the incident to IAB on May 17, 2010.

Accordingly, Respondent is found Not Guilty of Specification No. 4.

Specification No. 5

Respondent stands charged herein in that on or about May 17, 2010, she possessed an unauthorized duplicate copy of Department property, in that she was in possession of a duplicate Department shield. Respondent is found Guilty as charged. Respondent acknowledged during the course of her direct examination that she was in possession of a duplicate shield.

Accordingly, Respondent is found Guilty of Specification No. 5.

PENALTY

In order to determine an appropriate penalty, Respondent's service record was examined. See Matter of Pell v. Board of Education, 34 N.Y.2d 222 (1974). Respondent was appointed to the Department on January 20, 2004. Information from her personnel folder that was considered in making this penalty recommendation is contained in the attached confidential memorandum.

Respondent has been found Guilty of the sole specification of being in possession of a duplicate shield. The Assistant Department Advocate asked for a penalty of 30 days time served on suspension plus one year dismissal probation, ordered breath testing and cooperation with counseling. The Court disagrees. There was no evidence presented in the New Jersey paperwork or that any field sobriety test or coordination test was conducted of Respondent. Respondent was not arrested as a result of the incident until days later and there was no determination made that she was under the influence of any intoxicant. Respondent testified that she had taken one painkiller for the discomfort associated with a surgery she had 11 days earlier. Respondent, however, was not operating a motor vehicle at the time she consumed the painkiller and no supervisor made a determination as to her fitness for duty.

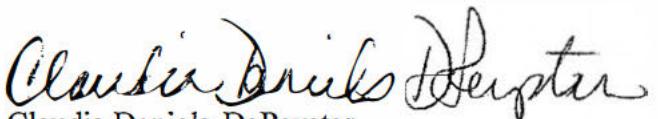
It must also be noted that although there was some testimony at the proceeding that Respondent was served with a summons for endangering the welfare of a child on the incident date, Respondent, along with the Department's own witness, Zimmer, disputed this claim. The summons, when it was eventually issued, was later dismissed in court. There was also testimony that the Department of Social Services in Orange County made "some findings" of child abuse against Respondent pertaining to the May

16, 2010 incident. Upon questioning by the Court, it was determined that the Orange County findings were based solely on the arrest of Respondent and her husband. Respondent was never interviewed or given a hearing in connection with that case and Respondent has since filed an appeal with respect to those findings given that both Respondent and her spouse's criminal cases were dismissed.

With respect to the duplicate shield, in Disciplinary Case No. 77927/02, an 18 year member of the Department with no prior disciplinary record forfeited 12 vacation days for possessing a duplicate shield and failing to process found property.

Accordingly, it is recommended that Respondent forfeit ten penalty days, to be deducted from Respondent's 30-day pre-trial suspension. It is also recommended that Respondent be restored the 20-day balance of her pre-trial suspension.

Respectfully submitted,

  
Claudia Daniels-DePeyster  
Assistant Deputy Commissioner Trials



POLICE DEPARTMENT  
CITY OF NEW YORK

From: Assistant Deputy Commissioner – Trials  
To: Police Commissioner  
Subject: CONFIDENTIAL MEMORANDUM  
POLICE OFFICER JASMIN LAPERUTA  
TAX REGISTRY NO. 934197  
DISCIPLINARY CASE NO. 86614/10

Respondent received an overall rating of 3.5 "Above Competent" on her last three annual performance evaluations for 2008, 2009 and 2010. Respondent has no medals in her career to date.

Respondent has no prior formal disciplinary record.

For your consideration.

*Claudia Daniels DePeyster*  
Claudia Daniels-DePeyster  
Assistant Deputy Commissioner Trials